

JAP:TJS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

M-10-828

- - - - -X

UNITED STATES OF AMERICA

- against -

MICHAEL TISDALE,
also known as
"smoothboy311,"

Defendant.

AFFIDAVIT AND COMPLAINT
IN SUPPORT OF AN ARREST
WARRANT

M. No. _____
(18 U.S.C. § 2252(a)(2))

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EASTERN DISTRICT OF NEW YORK, SS.:

Linh Phung, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation (the "FBI"), duly appointed according to law and acting as such.

On or about June 10, 2009 within the Eastern District of New York and elsewhere, the defendant MICHAEL TISDALE, also known as "smoothboy311," did knowingly receive and distribute any visual depiction, the production of such visual depiction having involved the use of one or more minors engaging in sexually explicit conduct and such visual depiction was of such conduct, using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce or which contains materials which have been mailed or so shipped or transported, by any means including by computer.

(Title 18, United States Code, Section 2252(a)(2)).

The source of my information and the grounds for my belief are as follows:¹

1. I have been a Special Agent of the FBI since September 2006, and am currently assigned to the New York Office. Since January 2010, I have been assigned to the Crimes Against Children squad. I have been assigned to investigate violations of criminal law relating to the sexual exploitation of children. I have gained expertise in this area through training in classes and daily work related to conducting these types of investigations. As part of my responsibilities, I have been involved in the investigation of numerous child pornography cases and have reviewed thousands of photographs depicting children (less than eighteen years of age) being sexually exploited by adults. Through my experience in these investigations, I have become familiar with methods of determining whether a child is a minor. I am also a member of the Eastern District of New York Project Safe Childhood Task Force.

2. I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents, my training and experience, and discussions I have had with other law enforcement personnel concerning the creation, distribution, and proliferation of child pornography. Additionally, statements attributable to individuals

¹ Because the purpose of this complaint is merely to establish probable cause to arrest, I have not set forth all of the facts and circumstances concerning this investigation of which I am aware.

herein are set forth in sum and substance and in part.

THE FBI INVESTIGATION

3. On June 10, 2009 an FBI Special Agent working in an undercover capacity (the "Undercover Agent"), signed in to a publicly available P2P file sharing program via an Internet connected computer located within the FBI San Diego Division.

4. The Undercover Agent browsed the shared folders for the user ID "smoothboy311." The Undercover Agent previewed images of several files which appeared to depict child pornography. Also available for download were numerous videos displaying file names consistent with child pornography.

5. The Undercover Agent selected and initiated the download of seven full image files and seven partial video files. All of these images and videos are available for the Court's review. Several of these files are described as follows:

- a. two_boys_11&15_149-59.mpg is a video depicting 2 minor males, each approximately 14 years old. Minor #1 is laying outside with his pants pulled down to his knees. Minor #2 is placing his mouth on the penis of Minor #1. Shortly thereafter, the roles are reversed.
- b. Man & Boy Anal.mpg is a video depicting a boy, approximately seven years old, lying naked on a couch. An Adult male is touching the boy's penis while the boy is touching the adult male's penis.

c. Boy and 30yo man (Suck&Fuck) - Complete.mpg is a video of a boy, approximately seven years old, lying partially clothed on a bed. An adult male is touching the boy's penis. The adult male pulls down his pants while laying on the bed. The boy touches the adult male's erect penis.

6. The Undercover Agent memorialized the session by intermittent video capture using a screen capture software program. In addition, any download activity was monitored via a network monitoring program.

7. The Undercover Agent used the network monitoring program to identify the IP address utilized by "smoothboy311" as 24.215.148.210, registered to Earthlink an Internet Service Provider ("ISP").

8. Records obtained from Earthlink by administrative subpoena showed that this IP address was subscribed to by "Michael Tisdale." The address associated with the account was Michael Tisdale is 10405 150th Street, Apartment 1A, Jamaica, New York 11435 ("Subject Premises").

9. On or about October 23, 2009, FBI agents conducted a search, pursuant to a warrant, of the Subject Premises. They recovered a desktop computer from the premises. A forensic examination of that hard drive revealed that the hard drive contained approximately 50 image files and 90 video files containing child pornography, including the three files identified

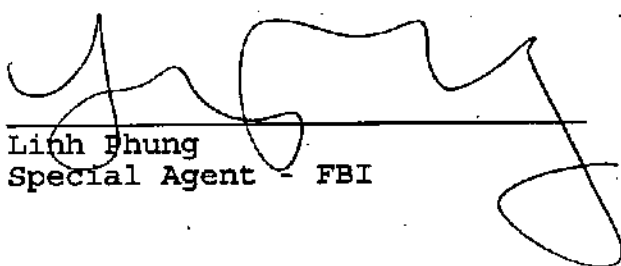
in paragraph 5 above. All of these files are available for the Court's review. Several of the other files recovered are described as follows:

- a. _1319_-1.JPG is an image depicting a naked adult male sitting on a couch with two naked prepubescent boys, who are approximately 6 to 8 years old, licking the adult male's penis.
- b. 10yo boy sklave for dad complete with sound.mpg is a video depicting a prepubescent asian boy, approximately 6-8 years old. An adult asian male touches and licks the boy's penis. The adult male places his finger in the boy's anus. The adult male's penis is then placed inside the boy's anus.
- c. P101-Man2Boy.mpg is a video depicting two prepubescent boys, both approximately six years old. Minor #1 is sitting or kneeling on the ground touching the erect penis of an adult male and also putting the penis in his mouth. Minor #2 is touching the penis of Minor #1. Minor #2 also touches the penis of the adult male and Minor #2 is stroking the adult male's penis in an up and down motion with his hand. The adult penis is then placed in Minor #2's mouth.

10. On or about October 23, 2009, FBI agents interviewed

MICHAEL TISDALE, who at that time resided at the Subject Premises. TISDALE stated, in sum and substance, that he had used a P2P software program and that his user name was "smoothboy311." He also stated, in sum and substance, that he had downloaded videos of children less than 14 years old. He stated, in sum and substance, that he knew that possessing pictures of children less than 18 years old involved in sexual acts is illegal. He also stated, in sum and substance, that the desktop computer recovered by the agents belonged to him.

WHEREFORE, your affiant respectfully requests that the Court issue an arrest warrant for the defendant MICHAEL TISDALE, also known as "smoothboy311," so that he may be dealt with according to law.



Linh Phung
Special Agent - FBI

Sworn to before me this
20th day of July, 2010

HONORABLE RAMON E. REYES, JR.
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK